

NUKEWATCH
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August 14, 2000

Food and Drug Administration
Dockets Management Branch (HFA305)
Room 10615630 Fishers Lane, Rockville, MD 20852

Re: Docket No. 00N-1351

Dear Sir or Madam:

Public Citizen opposes the use of the word "fresh" in the labels of foods that have undergone some type of processing.

In the United States, the customary use of the word "fresh" is to denote something that is newly made or grown. This is confirmed by the definitions in *Webster's New World Dictionary*, which defines fresh as:

- 1) recently produced, obtained, or grown; newly made [fresh coffee]
2. Having original strength, vigor, quality, taste, etc.; esp., a) not salted, preserved, pickled, etc. [fresh meat] b) not spoiled, rotten, or stale.¹

Unfortunately, the FDA's January 6, 1993 final rule that governs the use of the terms "fresh," "freshly baked," and "fresh frozen" in brand names and as descriptions of food products has already given license to the food industry to mislead American consumers. Foods that are coated with waxes, treated post-harvest with pesticides, washed with chlorine or acids, or irradiated with the equivalent of 33 million chest x-rays are now allowed to be labeled as "fresh."

The current proposal will further corrupt the meaning for consumers of the word "fresh." Alternative food processing technologies render changes to food that are not visible. In fact, some of these alternative technologies may preserve food longer, resulting in a decrease of vitamins. Consumers, who associate the word "fresh" with products that are not processed and are more nutritious than foods that have undergone some type of treatment, would be unaware of this nutritional loss, the chemical changes in the food, or the chemical residues that might remain as a result of the alternative process. In fact, in most cases, consumers would believe that vegetables and fruits labeled "fresh" are raw and completely unprocessed. Consumers most certainly would not believe that items with the "fresh" label have been "processed to control for pathogens."

¹ *Webster's New World Dictionary of the American Language*, New York: Simon and Schuster, 1984.

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Unfortunately, it is obvious that the food industry understands the value of the word "fresh" and wants to exploit it as a marketing tool. As a National Food Processors Association news release of July 21, 2000 states,

"Fresh" is a powerful term to describe foods, and it is clearly a word that conveys a strong message of product quality in the minds of consumers... The realities of modern agricultural practices, food distribution and marketing, and the location of population centers distant to agricultural centers means that most food have to be treated in some manner to retain nutritional characteristics and organoleptic properties over the time needed to reach consumers.....NFPA believes that it would not mislead consumers to claim that irradiated shell eggs - or any food irradiated with the limits approved for irradiation - are indeed "fresh."

If the "realities of modern agricultural practices" make it impossible to deliver "fresh" food, consumers have a right-to-know that their food is transported long distances and that this has an effect on food quality. The use of misleading terms means that the buying public cannot make informed decisions. For instance, during the summer, local produce is available to consumers. If they believe that the fruits and vegetables (grown thousands of miles away) and sold in their local grocery store is "fresh," they may be less likely to seek out locally grown vegetables that are "fresher" and therefore more nutritious.

Furthermore, allowing this deceptive use of the word "fresh" would be one more contributing factor to the increased consolidation in the food industry. The trend towards larger integrated food companies producing food on a giant scale and transporting it long distances, does not create a food system with higher quality or more nutritious food. This system puts family farmers out of business, because large integrated food companies can afford to use expensive, experimental technologies to give food products the appearance of being high quality, when they are actually not "fresh" because they have been produced hundreds or thousands of miles from where they are purchased and consumed.

Consumers have a right-to-know that the food industry wants to use these alternative technologies to increase the shelf-life of food, while maintaining the appearance that the food item is newly produced. The following principals should be followed in using the term "fresh" on food labels:

- The term "fresh" should be reserved for foods such as: raw and unprocessed fruits and vegetables and fresh baked products.
- Foods that have been processed should be clearly labeled, the process identified, and nutritional loss identified. The term "fresh" should not be used.
- Country of origin should be included on the label.
- Products labeled as "fresh" should have the date that they were picked, packaged, baked, etc. included on the label.

- If a food item could be contaminated by a pathogen, a warning label should provide instructions on cleaning the product.

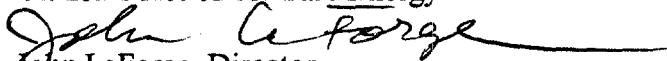
In conclusion, permitting the food industry to use the word "fresh" for food that is clearly not newly produced, grown, or newly made is misleading and does not serve the interests of consumers. The FDA should keep the public interest in mind and not allow the food industry to make a mockery of the word "fresh." The agency should also reconsider the use of this term with foods that are coated with waxes, treated with pesticides post-harvest, washed with chlorine or acids or irradiated up to 1 kilogray of ionizing radiation. In addition, the FDA should investigate the long-term health effects (nutritional and toxicological) of eating foods that are processed to increase shelf-life or to kill pathogens.

Sincerely,

Wenonah Hauter
Director, Public Citizen's Critical Mass Energy & Environment Program

Tony DelPlato, Coordinator
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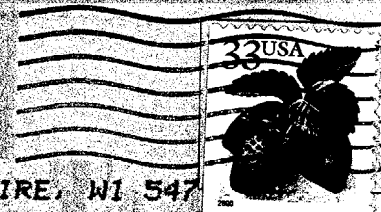
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